

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SARAH G. GORENA,

Plaintiff,

v.

AETNA LIFE INSURANCE COMPANY,

Defendant.

Case No. 2:17-cv-00532-MJP

**JOINT STIPULATED MOTION TO  
SEAL ADMINISTRATIVE RECORD**

NOTE ON MOTION CALENDAR:  
January 25, 2018

Pursuant to Federal Rule of Civil Procedure 5.2(e) and Local Civil Rule 5(g), Plaintiff Sarah Gorena and Defendant Aetna Life Insurance Company hereby stipulate and respectfully ask the Court to authorize the administrative record to be filed and maintained under seal to protect Ms. Gorena's privacy interests and sensitive medical information contained in the record.

**I. BACKGROUND & ARGUMENT**

In this ERISA case, Ms. Gorena seeks long-term disability benefits under a group insurance policy. The underlying administrative record in this ERISA case is voluminous, and contains extensive medical records and discussion of Ms. Gorena's medical conditions.

The Western District holds that—although Local Rule 5(g) establishes a “strong presumption in favor of public access to the Court’s files” and the Ninth Circuit recognizes a “strong presumption of public access to documents attached to dispositive motions”—the “need to protect medical privacy qualifies in general as a ‘compelling reason’” to protect medical records and to file them under seal. *Karpenski v. Am. Gen. Life Companies, LLC*, 2013 WL

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5588312, at \*1 (W.D. Wash. Oct. 9, 2013) (quoting LCR 5(g) and *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)). In *Karpenski*, Chief Judge Martinez determined the need to protect medical privacy qualifies as a “compelling reason” to grant a motion to seal even under the heightened “compelling reasons” standard applicable in the context of summary judgment motions. *Id.* *Karpenski* recognized that even if a plaintiff has put her health at issue in a lawsuit, she nonetheless remains entitled to the court’s protection of sensitive medical information. *Id.*; see also *Macon v. United Parcel Serv., Inc.*, 2013 WL 951013, at \*5 (W.D. Wash. Mar. 12, 2013) (granting unopposed motion to seal medical records even where plaintiff failed to comply with LCR 5(g) given the “private nature of the documents at issue”). This approach has been followed by district courts throughout the Ninth Circuit. See, e.g., *G. v. Hawaii*, 2010 WL 2607483 (D. Haw. 2010) (granting motion to seal, explaining that “[t]he need to protect medical privacy qualifies as a ‘compelling reason.’”); *Lombardi v. TriWest Healthcare Alliance Corp.*, 2009 WL 1212170, at \*1 (D. Ariz. 2009) (granting motion to seal documents that “contain sensitive personal and medical information”); see also *Skinner v. Ashan*, 2007 WL 708972, \*2 (D.N.J. Mar. 2, 2007) (observing that medical records “have long been recognized as confidential in nature”).

In this case, compelling reasons to grant this joint motion to seal exist because the administrative record contains extensive private medical records and discussion of Ms. Gorena’s private medical information. The parties have met and conferred in good faith about the privacy interests at issue, and they agree that sealing the administrative record is appropriate since redaction is not a reasonably feasible alternative due to the high volume of medical records and medical information contained throughout the record. The parties anticipate citing to the administrative record in connection with cross-motions to resolve this case.

## II. CONCLUSION

In light of the foregoing, the parties jointly ask the Court to grant this stipulated joint motion to seal and permit the administrative record to be maintained under seal in this case.

1 DATED: January 25, 2018

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ORDER

IT IS SO ORDERED. The Court GRANTS the parties' joint stipulated motion to seal the administrative record and ORDERS that the administrative record may be filed and/or maintained under seal in this case.

DATED this 30<sup>th</sup> day of January, 2018.

  
Honorable Marshall J. Pechman  
United States District Court Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington and the United States, that on the date listed below, the document attached hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following:

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DATED this 25th day of January, 2018.

s/ David Howenstine  
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